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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI V.K. SHRIVASTAVA, J.

W.P. No. 398 of 2001

PETITIONERS

1. Jagdish Prasad Gupta S/o Late Baeni Saw aged about 60 years.
2. Shiv Kumar Gupta S/o Late Ram Sundar Saw aged about 62 years R/o Village Bazaardand Jurgum ward No. 2 district Jashpur (C.G.)

VERSUS

RESPONDENTS

1. The State of Chhattisgarh Through secretary local self Govt. Secreatreat Raipur (C.G.)
2. Collector, Jashpur Distt. Jashpur (C.G.)
3. The President of Nagar Panchayat Jashpur (C.G.)
4. Nagar Panchayat Jashpur through its Chief Municipal Officer Jashpur (C.G.)

Present : Dr. Shailesh Ahuja, learned counsel for the petitioners.
Shri Utkarsh Verma, learned Dy.G. A. for the State/ respondents No. 1 & 2.

ORAL ORDER
(Passed on 16th November, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ.

The petitioners are the retired teachers. They have filed this writ petition claiming to be *pro bono publico* and alleging that 0.23 acres of land comprised in Khasara No. 350/1 situated between ward No.2 and ward No. 6 of Jurmug mohalla locality in Jashpur town ought to have been retained as a children park, but, Nagar Panchayat, Jashpur, has proposed to construct a shopping complex on that land and therefore, the Nagar Panchayat should be estopped from proceeding with the construction. According to the petitioners, petition scheduled land is an open Government land meant for children park.

Opposing the writ petition, the State Authorities as well as Nagar Panchayat, Jashpur, have filed their returns. In the return filed by the State Authorities, it is pointed out that the petition scheduled land was a Government land; the Government at the request of the Nagar Panchayat, Jashpur, granted the petition scheduled land to Nagar Panchayat and that the petition scheduled land was not earmarked as children park. The petitioners have not laid any material before the Court to show that what the State Authorities have stated on oath is factually incorrect. Unless the petition scheduled land is shown to have been earmarked for the purpose of establishing children park under any statutory instrument or administrative instructions of the Nagar Panchayat, issuing mandamus to the State Authorities or to Nagar Panchayat, Jashpur, to retain the petition scheduled land as children park would not arise. The writ petition is, therefore, dismissed. No costs.

Sd/-
V.K. Shrivatava
Judge

Sd/-
Chief Justice

Kamde